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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Carriage of Digital Television Broadcast Signals
and Implementation of the Satellite Home Viewer
Protection Act

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CS Docket No. 98-120 /
CS Docket No. 00-96
CS Docket No. 00-2

To: The Commission

REPLY COMMENTS OF MARANATHA BROADCASTING COMPANY, INC.

Maranatha Broadcasting Company, Inc. ("MBC"), licensee of independent television broadcast station WFMZ-TV, Channel 69, Allentown, Pennsylvania, and permittee of WFMZ-DT, Channel 46, Allentown (currently operating pursuant to special temporary authority granted by the FCC staff), through counsel, submits these brief Reply Comments concerning the FCC's *Further Notice of Proposed Rule Making* in the above-referenced proceeding, FCC 01-22, released January 23, 2001, published in summary form at 66 *Fed. Reg.* 16523 (March 26, 2001). Specifically, these Reply Comments respond to portions of the Comments filed in this proceeding by the National Cable & Telecommunications Association ("NCTA") and Comcast Corporation's letter response to the Cable Services Bureau's attempt to survey cable operators concerning channel capacity and existing retransmission consent agreements.

The Comcast response is of particular interest to MBC, inasmuch WFMZ-TV and WFMZ-DT operate in the Philadelphia television market. As noted in MBC's

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Comments filed earlier in this proceeding, nearly 83 percent of TV households in the market subscribe to cable television and Comcast owns cable systems that include nearly 85 percent of cable television homes in the Philadelphia market, meaning that Comcast controls access to more than 70 percent of total market TV households. *MBC Comments*, June 11, 2001, p. 4.

Comcast's response states that it has "existing arrangements with several *network owned and operated station groups* that grant Comcast digital retransmission consent rights," *Letter to Kenneth Ferree*, May 29, 2001, p. 4 (emphasis added). At another place, Comcast responds that it "has agreements in place, or is currently in retransmission consent negotiations, with a number of stations which have sought digital carriage of their signals" *Ferree Letter*, Answer to Question 4, Page 1 of 2. The implication is that retransmission consent is a viable alternative to an effective must-carry rule. The same theme is iterated in the NCTA Comments, p. 13, which refer to agreements between cable multiple system owners and various major television networks for carriage of DTV signals.

These references to existing retransmission consent agreements, however, ignore that a principal purpose of the must-carry rules is not to assure carriage of stations owned by or affiliated with the major networks but to preserve the viability of smaller and independent stations. See *MBC Comments*, pp. 3-4. By and large, for MBC, retransmission consent did not prove to be an effective means of securing access to cable subscribers for WFMZ-TV, and, so far, that has also been the case with the digital programming services provided on WFMZ-DT. (See *MBC Comments*, p. 3.) Nor is there any reason the FCC should expect that retransmission consent will be effective, at least

without the alternative of invoking mandatory carriage. Given the high degree of vertical integration in the cable television industry – Comcast, to give but one example, owns its own news and sports channels, the “E!” entertainment network, and other niche networks, and, through its board of directors, is linked to other cable networks such as the Weather Channel SM – cable operators, when given the option, will always elect to carry a channel in which they have an economic interest rather than the programming of an independently-owned television station in which they have no interest. Without effective must-carry rules, therefore, MBC will be limited in its ability to make substantial investments in the new programming services that DTV is capable of providing and both cable subscribers and members of the public who do not subscribe to cable will be denied access to that programming and information content.

Comcast's response to the FCC's survey, and NCTA's comments, show that the effect of requiring independent stations to rely on retransmission consent to secure access to cable television subscribers will be to create a caste system for over-the-air DTV broadcasting. The network-owned and operated stations, and stations owned by major group owners, will benefit financially from cable carriage of digital programming while independent stations and stations in smaller markets -- unable to secure carriage through retransmission consent -- will be able to provide, at best, a truncated digital programming service. At the same time, independent and smaller market stations will be subject to the same public interest obligations as the network- and group-owned stations (see, e.g., *Notice of Proposed Rule Making* in MM Docket No. 00-167, *Children's Television Obligations of Digital Television Broadcasters*, FCC 00-344, released October 5, 2000) but

required to support it from a much smaller economic base, jeopardizing the viability of their digital operations altogether.

Because retransmission consent will not assure that the public will have access to the digital programming offered by local television broadcasters, the FCC must adopt an effective dual carriage requirement during the transition to digital television.

Respectfully submitted,

MARANATHA BROADCASTING
COMPANY, INC.

By 

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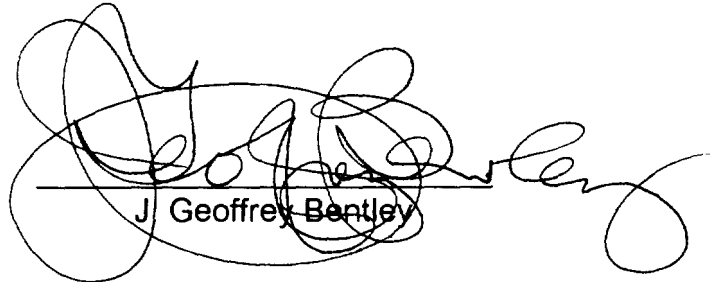
August 16, 2001

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing Reply Comments of Maranatha Broadcasting Company, Inc., to be served this 16th day of August 2001, by first class United States mail, postage prepaid, on the following:

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